Alcohol Broadcasting Rules

No other group of rules and regulations causes more problems with regard to interpretation than those concerning the advertising of intoxicating beverages. While federal laws are very simple and straightforward, Missouri state laws can be confusing and subject to interpretation based upon the variables of the situation.

Federal
The FCC has never adopted rules or regulations for this category. The Congress of the United States has adopted no laws restricting advertising for this category.

Missouri
The State of Missouri has a volume of rules and regulations regarding advertising for this category. However, the most significant is:

Regulation No. 70-2.240 "Prohibited Statements in the Advertising of Intoxicating Liquors or Nonintoxicating Beer."

5 - (G) "Any statement offering any coupon, premium, prize, rebate, sales price below cost or discount as an inducement to purchase intoxicating liquor or nonintoxicating beer."

The above section prohibits the advertising of price in promotions such as "Happy Hour" or "Lady's Night" where such promotions, or any similar promotions, indicate prices that are only available during limited business hours or certain days of operation and therefore represent a "discount". However, the retailer may use phrases such as "Happy Hour" or "Lady's Night" when price is not mentioned in the advertising. Please note that "Two for One" or similar phrases are never permitted because, by their wording, they are offering a discount.

The use of price is permitted when the advertisement does not reflect a price below the normal or usual price or a price that is below the retailer's cost. For example: Assuming that $5.99 is a price below what the retailer would normally charge for a 6-pack of beer and above the retailer's cost the following represent "permitted" and "not permitted" advertising statements:

Permitted: "Pick up a six-pack of beer for $5.99 while shopping at XYZ store."

Not Permitted: "This week at XYZ a six-pack of beer is $5.99." Or "A six pack of beer regularly $6.50 is only $5.99."

Permitted: "Stop by the XYZ store for our Grand Opening Celebration. You can pick up a 6-pack of beer for $5.99."

Not Permitted: "Stop by the XYZ store for our Grand Opening Celebration. During our celebration you can get a 6-pack of beer for $5.99."

Note: For purposes of these rules and regulations Missouri does not consider "point of purchase" to be advertising as long as it is confined inside the store. Therefore, a retailer can use "point of purchase" within the store to promote price in any fashion, provided that the point of purchase is not visible from outside the store.

Please contact the MBA Legal Hotline or the MBA office for further guidance.

This information is not intended to serve as legal advice. It is a guide to be used by the reader as an aid in determining commercial and programming guidelines. Should any question arise regarding legal interpretation pertaining to a particular problem, you are advised to consult your attorney.